

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ENERGY WISE SYSTEMS, INC.,)	Case No.: 1:06 CV 2227
)	
Plaintiff)	JUDGE SOLOMON OLIVER, JR.
)	
v.)	
)	
KORTE CONSTRUCTION COMPANY,)	
)	
Defendant)	<u>ORDER OF DISMISSAL</u>

The court held a telephonic conference in the within case on July 9, 2007, at 4:30 p.m., on the motion of Plaintiff's counsel to withdraw (ECF No. 21). Counsel indicated, *inter alia*, that he had not been able to contact Plaintiff's principal, Joseph Gallo, by mail or telephone for a few weeks. At the conference, the court granted the Motion of Counsel to Withdraw. The court also ordered that Plaintiff file a document in this case notifying this court within 14 calendar days of the Order, whether it wishes to proceed with the lawsuit. If Plaintiff notified the court within that time frame that it wished to proceed, the court could afford new counsel 30 days from the date of the Order to enter an appearance. The court further ordered that if Plaintiff did not respond within the allotted 14 days or new counsel did not enter an appearance within 30 days, the court would dismiss the complaint for failure to prosecute. The court also mailed a copy of its Order to Plaintiff, c/o Mr. Joseph Gallo at his last known address as furnished by Plaintiff's counsel:

6001 Night Vista Drive
Parma, Ohio 4412

Both the 14-day time frame for the Plaintiff to notify the court whether it wished to proceed with the lawsuit and the 30-day period allowed for new counsel to enter an appearance has expired with no word from Plaintiff or a new counsel. Consequently, the court hereby dismisses the within action pursuant to Fed. R. Civ. P 41(b) for failure to prosecute.

IT IS SO ORDERED.

/s/ SOLOMON OLIVER, JR.
UNITED STATES DISTRICT JUDGE

August 29, 2007